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JAN 18 2005

OFFICE OF PETITIONS

In re Application of :
Michael J. Adang, et al. :
Application No. 07/260,574 (FWC No. 07/713,624) : ON PETITION
Filed : October 21, 1988 :
Attorney Docket No. 7285-012 :

This is a decision on the petition under 37 CFR 1.182, filed November 22, 2004, requesting entry of an amendment to the specification to insert reference to an earlier-filed application (namely, Application 07/076,339) pursuant to the provisions of 35 U.S.C. §120.

The petition is GRANTED.

The file record discloses that a request for a File Wrapper Continuing Application (FWC) was filed on June 10, 1991. Pursuant to the provisions of 37 CFR 53(d)(1)(v), a request for an FWC is a request to expressly abandon the prior application as of the filing date of the request. A request for an FWC is the specific reference required by 35 U.S.C. §120 to every application assigned the application number; however, the prior application failed to make a specific reference to the prior-filed application, namely 07/076,339, filed July 27, 1987, prior to the abandonment thereof. Petitioner now requests that the prior abandoned application be amended by inserting a reference to the earlier-filed application. The instant petition is accompanied by an amendment to include a reference to the prior filed application in the first line of the specification following the title of the invention.

35 U.S.C. §120 permits entry of a subsequent amendment to an abandoned application in applications filed prior to November 29, 2000 to include the benefit of an earlier filing date for purposes other than prosecution. See Sampson v. Commissioner of Patent and Trademarks, 195 USPQ 136 (DC DC 1976).

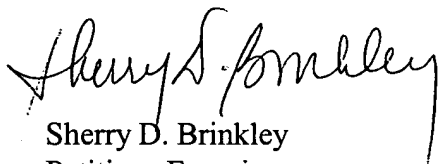
In view thereof, the request for entry of an amendment to insert a reference to the above-noted earlier-filed application is granted.

A corrected filing receipt which includes the reference to the prior-filed application accompanies this decision on petition.

Since the rules do not specifically provide for an amendment to include a reference to a prior-filed application in an abandoned application, a petition under 37 CFR 1.182 is the appropriate avenue for the requested relief. The \$130 petition fee is being charged to counsel's deposit account as authorized.

Any questions concerning this decision may be directed to the undersigned at (571) 272-3204.

The application is being returned to Technology Center AU 1638 for consideration of the amendment filed November 22, 2004.



Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Conferee: Frances M. Hicks



Attachment: Corrected Filing Receipt